



COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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Interim Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from Panama

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Notice of Interim Procedures and Request for Comments.

SUMMARY: This notice sets forth the interim procedures the Committee for the Implementation of Textile Agreements (“CITA”) will follow in implementing certain provisions of the United States-Panama Trade Promotion Agreement (“US-Panama TPA”). Title III, Subtitle B, Section 321 through Section 328 of the United States-Panama Trade Promotion Agreement Implementation Act (“Implementation Act”) [Public Law 112-43] authorizes the President to consider requests from the public for textile and apparel safeguard actions. The President has delegated to CITA the authority to determine whether imports of a Panamanian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. CITA hereby gives notice to interested entities of the procedures CITA will follow in considering such requests and solicits public written comments on these interim procedures.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FR], CITA intends to use these interim procedures to process requests from the public. CITA solicits public written comments on the interim procedures. Comments must be received no later than [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION] in either hard copy or electronically.

ADDRESSES: If submitting comments in hard copy, an original, signed document must be submitted to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. If submitting comments electronically, the electronic copy must be submitted to OTEXA_PANAMA@trade.gov. All submitted comments will be posted for public review on the website dedicated to U.S.-Panama TPA textile and apparel safeguard proceedings. The website is located on the U.S. Department of Commerce’s Office of Textile and Apparel website (<http://otexa.ita.doc.gov>), under “Panama TPA”/“Safeguards.” Additional instructions regarding the submission of comments may be found at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Carrigg, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Legal Authority: Section 321 through Section 328 of the Implementation Act and Proclamation

BACKGROUND:

Title III, Subtitle B, Section 321 through Section 328 of the Implementation Act implements the textile and apparel safeguard provisions, provided for in Article 3.24 of the US-Panama TPA. The safeguard mechanism applies when, as a result of the elimination of a customs duty under the US-Panama TPA, a Panamanian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.24 permits the United States to increase duties on the imported article from Panama to a level that does not exceed the lesser of the prevailing U.S. most-favored-nation (MFN) duty rate for the article or the U.S. MFN duty rate in effect on the day the US-Panama TPA enters into force.

The import tariff relief is effective beginning on the date that CITA determines that a “Panamanian textile or apparel article,” as defined in Section 301(2) of the Implementation Act, is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article cause serious damage, or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article. Consistent with Section 323(a) of the Implementation Act, the maximum period of import tariff relief, as set forth in Section 3 of this notice, shall be three years. Consistent with Section 323(b) of the Implementation Act, if the initial period of import relief is applied for less than three years, CITA may extend it up to the three year maximum if CITA determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition, and there is evidence that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be applied to the same article at the same time under these procedures if relief previously has been granted with respect to that article under: (1) these procedures; (2) Subtitle A to Title III of the Implementation Act; or (3) Chapter 1 of Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

Authority to provide import tariff relief with respect to a Panamanian textile or apparel article will expire five years after the date on which the US-Panama TPA enters into force.

Under Article 3.24.6 of the US-Panama TPA, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Panama “mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the textile safeguard measure.” Such concessions shall be limited to textile and apparel products, unless the United States and Panama agree otherwise. If the United States and Panama are unable to agree on trade liberalizing compensation, Panama may increase customs duties equivalently on U.S. products. The obligation to provide compensation terminates upon termination of the safeguard relief. Section 327 of the Implementation Act extends the President’s authority to provide compensation under Section 123 of the Trade Act of 1974 (19 U.S.C. 2133), as amended, to measures taken pursuant to the US-Panama TPA’s textile and apparel safeguard provisions.

Procedures for Requesting Textile and Apparel Safeguard Actions

1. Requirements for Requests. Pursuant to Section 321(a) of the Implementation Act and Paragraph (7) of Presidential Proclamation 8894 of November 5, 2012, an interested party may file a request for a textile and apparel safeguard action with CITA. CITA will review requests from an interested party sent to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230. Ten copies of any such request must be provided. As provided in Section 328 of the Implementation Act, CITA will protect from disclosure any business confidential information that is marked “business confidential” to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. At the conclusion of the request, an interested party must attest that “all information contained in the request is complete and accurate and no false claims, statements, or representations have been made.” Consistent with Section 321(a), CITA will review a request initially to determine whether to commence consideration of the request on its merits. Within 15 working days of receipt of a request, CITA will consider the criteria set forth below to determine whether the request provides the information necessary for CITA to consider the request. If the request does not provide the necessary information, CITA will promptly notify the requester of the reasons for this determination and the request will not be considered. However, CITA will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding CITA practice in considering textile safeguard actions, CITA will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) a domestic producer or producers of an article that is like, or directly competitive with, the subject Panamanian textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like, or directly competitive with, the subject Panamanian textile or apparel article.

A request will only be considered if the request includes the specific information set forth below in support of a claim that a textile or apparel article from Panama is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article.

A. Product description. Name and description of the imported article concerned, including the category or categories or part thereof of the U.S. Textile and Apparel Category System (see “Textile Correlation” at <http://otexa.ita.doc.gov/corr.htm>) under which such article is classified, the Harmonized Tariff Schedule of the United States subheading(s) under which such article is classified, and the name and description of the like or directly competitive domestic article concerned.

B. Import data. The following data, in quantity by category unit (see “Textile Correlation”), on total imports of the subject article into the United States and imports from Panama into the United States:

- * Annual data for the most recent three full calendar years for which such data are available;

- * Quarterly data for the most recent year for which such data are partially available, and

quarterly data for the same quarter(s) of the previous year (e.g., January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

The data should demonstrate that imports of a Panamanian -origin textile or apparel article that is like, or directly competitive with, the article produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article.

C. Production data. The following data, in quantity by category unit (see “Textile Correlation”), on U.S. domestic production of the like or directly competitive article of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof:

- * Annual data for the most recent three full calendar years for which such data are available;

- * Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

The requester must provide a complete listing of all sources from which the data were obtained and an affirmation that to the best of the requester’s knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin. In such cases, data should be reported in the first unit of quantity in the Harmonized Tariff Schedule of the United States (<http://www.usitc.gov/tata/hts>) for the Panamanian textile and/or apparel articles and the like or directly competitive articles of U.S. origin.

D. Market Share Data. The following data, in quantity by category unit (see “Textile Correlation”), on imports from Panama as a percentage of the domestic market (defined as the sum of domestic production of the like or directly competitive article and total imports of the subject article); on total imports as a percentage of the domestic market; and on domestic production of like or directly competitive articles as a percentage of the domestic market:

- * Annual data for the most recent three full calendar years for which such data are available;

- * Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

E. Additional data showing serious damage or actual threat thereof. All data available to the requester showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits, and investment, and any other information, relating to the existence of serious damage, or actual threat thereof, caused by imports from Panama to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requester should provide best estimates and the basis therefore:

- * Annual data for the most recent three full calendar years for which such data are available;

- * Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

2. Consideration of Requests. Consistent with Section 321(b) of the Implementation Act, if CITA determines that the request provides the information necessary for it to be considered, CITA will publish in the **Federal Register** a notice seeking public comments regarding the request, which will include a summary of the request and the date by which

comments must be received. The **Federal Register** notice and the request, with the exception of information marked “business confidential,” will be posted by the Department of Commerce’s Office of Textiles and Apparel (“OTEXA”) on the Internet (<http://otexa.ita.doc.gov>). The comment period shall be 30 calendar days. To the extent business confidential information is provided, a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. At the conclusion of its submission of such public comments, an interested party must attest that “all information contained in the comments is complete and accurate and no false claims, statements, or representations have been made.” Comments received, with the exception of information marked “business confidential,” will also be on the Internet (<http://otexa.ita.doc.gov>) for review by the public. If a comment alleges that there is no serious damage or actual threat thereof, or that the subject imports are not the cause of the serious damage or actual threat thereof, CITA will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive articles. In the case of requests submitted by entities that are not the actual producers of a like or directly competitive article, particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive article.

Any interested party may submit information to rebut, clarify, or correct public comments submitted by any other interested party at any time prior to the deadline provided in this section for submission of such public comments. If public comments are submitted less than 10 days before, or on, the applicable deadline for submission of such public comments, an interested party may submit information to rebut, clarify, or correct the public comments no later than 10 days after the applicable deadline for submission of public comments.

With respect to any request considered by CITA, CITA will make a determination within 60 calendar days of the close of the comment period. If CITA is unable to make a determination within 60 calendar days, it will publish a notice in the **Federal Register** and include the date by which it will make a determination. If CITA makes a negative determination, it will publish this determination and the reasons therefore in the **Federal Register**.

3. Determination and Provision of Relief. CITA shall determine whether, as a result of the reduction or elimination of a duty under the US-Panama TPA, Panama’s textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. In making this determination, CITA: (1) shall examine the effect of increased imports on the domestic industry as reflected in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and (2) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof. CITA, without delay, will provide written notice of its decision to the Government of Panama and will consult with said party upon its request.

If a determination under this section is affirmative, CITA may provide import tariff relief to a U.S. industry to the extent necessary to remedy or prevent the serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. Such

relief may consist of an increase in duties to the lower of: (1) the Normal Trade Relations (NTR)/Most Favored Nation (MFN) duty rate in place for the textile or apparel article at the time the relief is granted; or (2) the NTR/MFN duty rate for that article on the day the US-Panama TPA enters into force.

The import tariff relief is effective beginning on the date that CITA's affirmative determination is published in the **Federal Register**. The maximum period of import tariff relief shall be three years. However, if the initial period for import relief is less than three years, CITA may extend the period of import relief to the maximum three-year period if CITA determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be imposed for an aggregate period greater than three years. Import tariff relief may not be applied to the same article at the same time under these procedures if relief previously has been granted with respect to that article under: (1) these procedures; (2) Subtitle A to Title III of the Implementation Act; or (3) Chapter 1 of Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

Authority to provide import tariff relief for a textile or apparel article from Panama that is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article, will expire five years after the date on which the US-Panama TPA enters into force.

4. Self Initiation. CITA may, on its own initiative, consider whether imports of a textile or apparel article from Panama are being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In such considerations, CITA will follow procedures consistent with those set forth in Section 2 of this notice, including the publishing of a notice in the **Federal Register** seeking public comment regarding the action it is considering.

5. Record Keeping and Business Confidential Information. The Office of Textiles and Apparel (OTEXA) will maintain an official record for each request on behalf of CITA. The official record will include all factual information, written argument, or other material developed by, presented to, or obtained by OTEXA regarding the request, as well as other material provided to the Department of Commerce by other government agencies for inclusion in the official record. The official record will include CITA memoranda pertaining to the request, memoranda of CITA meetings, meetings between OTEXA staff and the public, determinations, and notices published in the Federal Register. The official record will contain material which is public, business confidential, privileged, and classified, but will not include pre-decisional inter-agency or intra-agency communications. If CITA decides it is appropriate to consider materials submitted in an untimely manner, such materials will be maintained in the official record. Otherwise, such material will be returned to the submitter and will not be maintained as part of the official record. OTEXA will make the official record public except for business confidential information, privileged information, classified information, and other information the disclosure of which is prohibited by U.S. law.

The public record will be made available for public inspection at the Office of Textiles and Apparel, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue N.W.,

Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on business days.

Information designated by the submitter as business confidential will normally be considered to be business confidential unless it is publicly available. CITA will protect from disclosure any business confidential information that is marked “business confidential” to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. CITA will make available to the public non-confidential versions of the request that is being considered, non-confidential versions of any public comments received with respect to a request, and, in the event consultations are requested, the statement of the reasons and justifications for the determination subsequent to the delivery of the statement to Panama.

Request for Comment on the Interim Procedures

Comments must be received no later than **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]**, and in the following format:

- (1) Comments must be in English.
- (2) Comments must be submitted electronically or in hard copy, with original signatures.
- (3) Comments submitted electronically, via email, must be either in PDF or Word format, and sent to the following email address: OTEXA_PANAMA@trade.gov. The email version of the comments must include an original electronic signature. Further, the comments must have a bolded heading stating “Public Version”, and no business confidential information may be included. The email version of the comments will be posted for public review on the Panama TPA Safeguard website.
- (4) Comments submitted in hard copy must include original signatures and must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. All comments submitted in hard copy will be made available for public inspection at the Office of Textiles and Apparel, Room 30003, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on business days. In addition, comments submitted in hard copy will also be posted for public review on the Panama TPA Safeguard website.
- (5) Any business confidential information upon which an interested person wishes to rely may only be included in a hard copy version of the comments. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating “Confidential Version.” Attachments considered business confidential information must have a heading stating “Business Confidential Information”. The Committee will protect from disclosure any business confidential information that is marked “Business Confidential Information” to the full extent permitted by law.

Janet E. Heinzen

Acting Chairman, Committee for the Implementation of Textile Agreements

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